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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,071	10/12/2004	Steven Victor Jones	BR8812	7044

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The Black & Decker Corporation
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EXAMINER

MITCHELL, KATHERINE W

ART UNIT PAPER NUMBER

3677

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,071

Applicant(s)

JONES

Examiner

Katherine W. Mitchell

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 4-18 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 19 and 20 is/are rejected.
- 7) ☒ Claim(s) 4-18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____
- None*

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because of the implied language "The invention is directed to" in line 1. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Information Disclosure Statement

2. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

3. Figure 1 and 1a and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

4. Claims 5-10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend on another multiple dependent claim. See MPEP § 608.01(n). Accordingly, the claims 5-10 not been further treated on the merits.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. It is not being further treated.

Claims 1-4 are rejected as the term “relatively soft” in claim 1 is a relative term which renders the claim indefinite. The term “relatively soft” is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. How would this be determined? What are the specific metes and bounds of the claim?

Art Unit: 3677

Claim 1 recites the "mandrel head forms a shoulder between said mandrel stem and an outer surface of said mandrel head which extends perpendicular to said shank axis", but this is grammatically unclear. What extends perpendicular -- the shoulder or the outer surface of the mandrel head.? Based on the drawings, examiner assumes it is the shoulder that extends perpendicular to said shank axis.

Claim 3 recited the width of the slots - what direction is the width?

Claim 4 recites "the side walls" of the slot -- what is a side wall? Is it the wall formed by the "missing material" of the body - ie, the walls along the circumference of the outer and inner surfaces, or is it the walls where the slots form an intersection between the inner and outer surfaces? Every tubular body with longitudinal slots has curved slot side walls that meet the "walls along the circumference of the outer and inner surfaces" definition.

Claims 2-4 are rejected as depending from a rejected claim.

Claim Rejections - 35 USC § 102

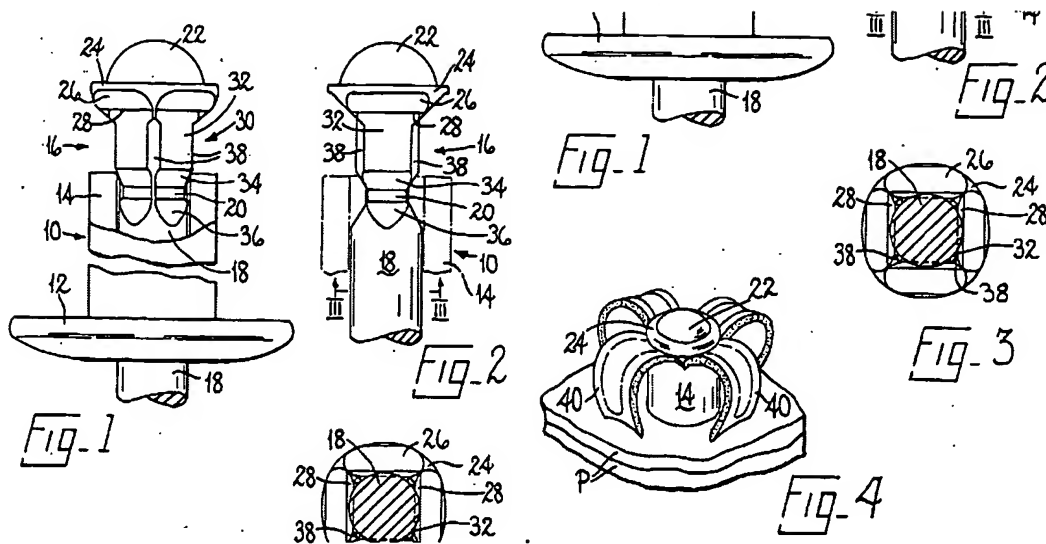
7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Potzas USP 4620825.

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Re claims 1-2: Potzas in Figs 1-4 (above) teaches Potzas teaches a peel type blind rivet (abstract) settable in soft material, having an elongate body 10 with a shank and preformed head 12 at one end, and a plurality of slots 12 terminating at the end remote from the head. There is a mandrel (16, column 2 lines 49-50) having a stem (18) which extends through coaxial with said body and having an enlarged head (22) with a maximum external diameter greater than the internal body diameter (Figs above). The mandrel head forms a shoulder between the mandrel stem and an outer surface of the head, -- the deforming means (head) presents a substantially flat surface perpendicular to an axis of said mandrel, in that the underside of head 22 terminates in plane forming flat shoulders 28 normal to axis of stem, which as shown in Figs 1- 4 and discussed in column 2 lines 62-68 is described as "flat shoulders 28 normal to the axis of the mandrel".

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Potzas in view of Palm, USP 5183357.

As discussed above, Potzas teaches all the elements except that at least one slot increases in width as it extends from an outer surface to an inner surface of said tubular body, or that the side wall of the slot are curved. As noted in 112 rejections, "width" is not oriented, but Palm shows slots 17 extending in a width from an outer surface to an inner surface of said tubular body in Figs 9, 8, 14, and 15 and col 5 lines 26-61. Therefore, it would have been obvious to one of ordinary skill in the art, having the teachings of Potzas and Palm before him at the time the invention was made, to modify Potzas as taught by Palm to include slots of specific geometries, in order to obtain an easier to peel rivet with smooth and more-flush 'collar' formed by the peeled-back sections, and optimum locking, as taught by Palm in col 3 and col 5 lines 35-61.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

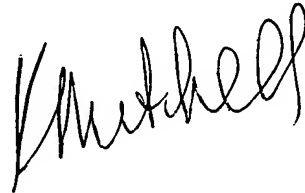
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W. Mitchell whose telephone number is 571-272-7069. The examiner can normally be reached on Mon - Thurs 10 AM - 8 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Katherine W Mitchell
Primary Examiner
Art Unit 3677

A handwritten signature in black ink, appearing to read 'K Mitchell', written in a cursive style.

Kwm
4/11/2006